

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6705

BILL NUMBER: HB 1108

NOTE PREPARED: Dec 23, 2009

BILL AMENDED:

SUBJECT: Failure to Yield to an Emergency Vehicle.

FIRST AUTHOR: Rep. Battles

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person who knowingly or intentionally fails to yield the right-of-way or proceed with due caution when approaching a stationary authorized emergency vehicle, a stationary recovery vehicle, or a stationary highway maintenance vehicle under certain circumstances commits a Class A misdemeanor for the second or subsequent violation. (Current law provides for a Class A infraction for the second or subsequent violation.)

Effective Date: July 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues: This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. This is because fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class A infraction is \$10,000, which is deposited into the state General Fund, while the maximum fine for a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a criminal costs fee if a guilty verdict is entered.

The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are

deposited into the state General Fund.

Background: Under current law, a violation concerning failing to yield the right-of-way to a stationary emergency vehicle, a stationary recovery vehicle, or a stationary highway maintenance vehicle is a Class A infraction. On average between 2004 and 2008, there were 1,251 citations a year for failing to yield to an emergency vehicle with 1,224 of those either pleading or were found guilty. There are no data available to indicate if the citations were issued for knowing and intentional offenses or if it was a second or subsequent violation by the offender.

Explanation of Local Expenditures: Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Twenty-seven percent of criminal costs fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the criminal costs fee while the city or town general fund receives 25%. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected:

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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